

## Maine Revised Statutes

### Title 5: ADMINISTRATIVE PROCEDURES AND SERVICES

#### Chapter 314: COORDINATION OF LAND USE AND NATURAL RESOURCE MANAGEMENT

##### §3345. DISPUTES INVOLVING NATURAL GAS PIPELINE ACTIVITIES

**1. Program established.** The natural gas pipeline dispute resolution program is established to provide private landowners with a prompt, independent, inexpensive and local forum for mediation of disputes concerning acts or omissions occurring during the construction, maintenance or operation of any natural gas pipelines that result in property damage.

[ 1999, c. 346, §2 (NEW) . ]

**2. Provision of mediation services; forms, filing and fees.** The Court Alternative Dispute Resolution Service created in Title 4, section 18-B, shall provide mediation services under this subchapter. The Court Alternative Dispute Resolution Service shall:

A. Assign mediators under this subchapter who are knowledgeable in land use regulatory issues, property law and environmental law; [1999, c. 346, §2 (NEW) . ]

B. Establish a simple and expedient application process; and [1999, c. 346, §2 (NEW) . ]

C. Establish a fee for services in an amount not to exceed \$175 for every 4 hours of mediation services provided. The landowner is responsible for the costs of the first 4 hours of mediation and for the costs of providing notice as required under subsection 7. [1999, c. 346, §2 (NEW) . ]

[ 1999, c. 346, §2 (NEW) . ]

**3. Application; eligibility.** A landowner may apply for mediation under this subchapter if that landowner:

A. Has suffered property damage as a result of an act or omission by a person surveying, constructing, operating or maintaining a natural gas pipeline on, over or under the landowner's land; [1999, c. 346, §2 (NEW) . ]

B. Applies for mediation under subsection 4:

(1) With respect to any dispute concerning acts or omissions occurring during the construction of the pipeline, within one year of the completion of pipeline construction on the property; or

(2) With respect to any dispute concerning acts or omissions occurring after the construction of the pipeline, within the applicable statute of limitations on the underlying claim; [1999, c. 346, §2 (NEW) . ]

C. With respect to any claim regarding future crop deficiency, provides notice to the entity against whom the claim is made at least 30 days prior to the crop harvest in order to allow the entity to assess crop deficiency; [1999, c. 346, §2 (NEW) . ]

D. Has submitted a claim in writing to the entity responsible for the property damage and afforded that entity at least 10 business days to respond but failed to reach a satisfactory agreement of settlement with that entity within that time period; and [1999, c. 346, §2 (NEW) . ]

E. Submits to the Superior Court clerk all necessary fees at the time of application. [1999, c. 346, §2 (NEW) . ]

[ 1999, c. 346, §2 (NEW) . ]

**4. Submission of application for mediation.** A landowner may apply for mediation under this subchapter by filing an application for mediation with the Superior Court clerk in the county in which the land that is the subject of the conflict is located. The Superior Court clerk shall forward the application to the Court Alternative Dispute Resolution Service.

[ 1999, c. 346, §2 (NEW) .]

**5. Stay of filing period.** Notwithstanding any other provision of law, the period of time allowed by law or by rules of the court for any person to file for judicial review in any state court of any claim related to a dispute for which mediation is requested under this subchapter is stayed for 40 days beyond the date the mediator files the report required under subsection 12 with the Superior Court clerk, but in no case longer than 130 days from the date the landowner files the application for mediation with the Superior Court clerk.

[ 1999, c. 346, §2 (NEW) .]

**6. Purpose; conduct of mediation.** The purpose of a mediation under this subchapter is to facilitate a mutually acceptable solution to a dispute in accordance with applicable principles of property law and the terms of any easement.

The mediator, whenever possible and appropriate, shall conduct the mediation in the county in which the land that is the subject of the conflict is located.

[ 1999, c. 346, §2 (NEW) .]

**7. Schedule; notice; participants.** The mediator is responsible for scheduling all mediation sessions. The mediator shall provide the names and addresses of the landowner and the entity with whom the landowner has a dispute and a copy of the notice of the mediation schedule to the Superior Court clerk, who shall mail the notices.

[ 1999, c. 346, §2 (NEW) .]

**8. Parties to mediation.** A mediator shall include in the mediation process any person the mediator determines is necessary for effective mediation. A mediator may exclude or limit a person's participation in mediation when the mediator determines that exclusion or limitation necessary for effective mediation. Participation in the mediation process is voluntary for all parties and may not be compelled by the mediator or any other person.

[ 1999, c. 346, §2 (NEW) .]

**9. Sharing of costs.** Participants in the mediation may share the costs of mediation after the initial 4 hours of mediation services have been provided.

[ 1999, c. 346, §2 (NEW) .]

**10. Admissibility.** The admissibility in court of conduct or statements made during mediation, including offers of settlement, is governed by the Maine Rules of Evidence, Rule 408(a) for matters subsequently heard in a state court and Federal Rules of Evidence, Rule 408 for matters subsequently heard in a federal court.

[ 1999, c. 346, §2 (NEW) .]

**11. Agreements.** A mediated agreement must be in writing. The landowner and the entity with whom the landowner is in dispute must sign the agreement as participants and the mediator must sign as the mediator.

[ 1999, c. 346, §2 (NEW) .]

**12. Mediator's report.** Within 90 days after the landowner files an application for mediation, the mediator shall file a report with the Superior Court clerk. The mediator shall file the report as soon as possible if the mediator determines that a mediated agreement is not possible. The report must contain:

- A. The names of the mediation participants; [1999, c. 346, §2 (NEW).]
- B. The nature of any agreements reached during the course of mediation and what further action is required of any person; [1999, c. 346, §2 (NEW).]
- C. The nature of any issues remaining unresolved and the mediation participants involved in those unresolved issues; and [1999, c. 346, §2 (NEW).]
- D. A copy of any written agreement under subsection 11. [1999, c. 346, §2 (NEW).]

The terms of any mediated agreement are enforceable in the Superior Court. If the parties fail to reach a mediated settlement, any party may file an appropriate civil action for remedies in accordance with applicable law.

[ 1999, c. 346, §2 (NEW) .]

#### SECTION HISTORY

1999, c. 346, §2 (NEW).

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